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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,594

11/24/2003

Gary Richard Clarke

ACE-19480

1017

10361

7590

09/09/2004

ANTONY C. EDWARDS
SUITE 800 - 1708 DOLPHIN AVENUE
KELOWNA, BC V1Y 9S4
CANADA

EXAMINER

THOMAS, DAVID B

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,594

Applicant(s)

CLARKE ET AL. *CH*

Examiner

David B. Thomas

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) 1 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/24/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because solid black shading areas are not permitted. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

2. Claims 1 and 12 are objected to because of the following informalities: Lines 4 and 5 of the first clause of each of the claims recite, "may be inserted". The examiner respectfully contends that such language does not constitute a positive limitation. Furthermore, the examiner also notes that regarding the hole being for the purpose of inserting a user's finger is merely a recitation of the intended use, or purpose, for the hole, and as such does not further limit the structure of the hole. Therefore, a prior art apparatus, which satisfies the claimed structural limitations, meets the claimed limitation. See *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bane, III (5,237,715), Hull et al. (5,272,942), and Lewis (4,125,913).

Bane, III ('715), Hull et al. ('942), and Lewis ('913) each disclose a multi purpose hand tool comprising an elongate generally cylindrical handle having opposite first and second ends, the handle having a hole therethrough located substantially mid-way along the length of the handle, the first and second ends having driving tools mounted thereon, the hole having a bore axis substantially perpendicular to the longitudinal axis of the handle.

5. Claims 1-3, 9-14, and 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Her (5,086,674).

Her ('674) discloses the invention as claimed.

6. Claims 1-7 and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al. (4,741,059).

Lee et al. ('059) disclose the multi purpose hand tool as claimed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al ('059), as applied to claims 1-7 and 12-18 above, in view of Lavietes (3,799,226).

Lee et al ('059), as applied to claims 1-7 and 12-18 above, disclose the invention as claimed, except for the provision of a ratchet for the fastener driving means. Lavietes ('226) discloses a multiple blade tool and teaches the provision of a ratchet drive for the fastener driving means. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the multi purpose tool of Lee et al. ('059) by providing a ratchet for the fastener driving means, as taught by Lavietes ('226), in order to permit positive drive in both directions and one way ratchet drive in either direction.


Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beck, Itabashi, and Lin each disclose a multi purpose tool which incorporates a hammer and a plurality of driver attachments. Bellows, Engquist, Fleck, Hsieh, and Norris each disclose a multi purpose tool having an opening in the handle. Beard, Creel, Mathis et al., Pruim, Rast, Trujillo et al., and Wilkens each disclose a tool having a hole or opening for receiving a user's finger, or fingers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


dbt
David B. Thomas
Patent Examiner
Art Unit 3723